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SEP 21 1982
ALEXANDER L. STEVAS,
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No. 81-2132

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1981

ESTATE OF FRANK W. JOHNSON,
Deceased.

KENNETH CORY, as State Controller,
Petitioner,

vs.

GEORGIA CAMPBELL,
Objector and Respondent.

REPLY TO NEW MATTER RAISED IN RESPONSE TO PETITION FOR A WRIT OF CERTIORARI

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1. P. L. 83-280 did not create State jurisdiction over succession in Reservation Probate Matters

Respondent asserts on pages 4 and 5 of the Response that California has jurisdiction over reservation probate matters because this authority was granted by Congress when P.L. 83-280 (18 USC 1112) was passed.

No authority was cited for this statement or to indicate that California has not always had the same jurisdiction over succession that it now has, which is jurisdiction over succession to reservation property owned outright and lack of jurisdiction over trust property.

2. The issue raised is substantial and capable of repetition

Respondent asserts on page 6 of the Response that because of Propositions 5 and 6 the prospective application of the decision below to California is insignificant. This is erroneous.

The purpose of the "pickup tax" is to take advantage of a federal estate tax credit allowed by Congress to encourage the states to impose death taxes in this area of taxation which traditionally belonged to the states. Lowndes and Kramer, *Federal Estate and Gift Taxes*, Prentice-Hall, Inc. 1956.

Obviously the amount of revenue from such tax may vary from time to time depending upon changes in federal legislation and on the size of estates involved.

The decision below denying California tax jurisdiction does not benefit reservation Indians in connection with the pick-up tax, but simply diverts to the United States revenue that would otherwise flow to California as intended by Congress.

The lower court decision would have the effect of imposing a federal constitutional bar to any future legislation either by the legislature or by the people to raise revenue from this source.

CONCLUSION

For these reasons and the reasons cited in the petition, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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